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Single Underline = Draft new language

**[Bold Print and Brackets]** = Current language drafted for deletion

Regular Print = Current language

§289.204. Fees for Certificates of Registration, Radioactive Material Licenses, Emergency Planning and Implementation, and Other Regulatory Services.

(a) Purpose. The requirements in this section establish fees for licensing, registration, emergency planning and implementation, and other regulatory services, and provide for their payment.

(b) Scope. **[Except as otherwise specifically provided, the requirements in this section apply to any person who is the following:]**

(1) Except as otherwise specifically provided, the requirements in this section apply to any person who is the following:

(A) [(1)] an applicant for, or holder of:

(i) [(A)] a radioactive material license issued in accordance with §289.252 of this title (relating to Licensing of Radioactive Material), §289.254 of this title (relating to Licensing of Radioactive Waste Processing and Storage Facilities), §289.259 of this title (relating to Licensing of Naturally Occurring Radioactive Material (NORM)), or §289.260 of this title (relating to Licensing of Uranium Recovery and Byproduct Material Disposal Facilities); or

(ii) [(B)] a general license acknowledgment issued in accordance with §289.251 of this title (relating to Exemptions, General Licenses, and General License Acknowledgments); or

(iii) [(C)] a certificate of registration for radiation machines and/or services, or sources of laser radiation, issued in accordance with §289.226 of this title (relating to Registration of Radiation Machine Use and Services), §289.230 of this title (relating to Certification of Mammography Systems and Accreditation of Mammography Facilities), or §289.301 of this title (relating to Registration and Radiation Safety Requirements for Lasers); or

(B) [(2)] the holder of a fixed nuclear facility construction permit or operating license issued by the United States Nuclear Regulatory Commission (NRC) in accordance with 10 Code of Federal Regulations Part 50; or

(C) [(3)] the operator of any other fixed nuclear facility.

(2) An applicant for, or holder of, a certificate of registration for dental radiation machines is subject to the fee requirements of §289.232 of this title (relating to Radiation Control Regulations for Dental Radiation Machines).

(3) An applicant for, or holder of, a certificate of registration for radiation machines used in veterinary medicine is subject to the fee requirements of §289.233 of this title (relating to Radiation Control Regulations for Radiation Machines Used in Veterinary Medicine).

(c) Definitions. The following words and terms when used in this section shall have the following meaning, unless the context clearly indicates otherwise.

(1) Contiguous properties - Those locations adjacent to an existing licensed or permitted area.

(2) Decontamination services - Providing deliberate operations to reduce or remove residual radioactivity from equipment, facilities, and land owned, possessed, or controlled by other persons to a level that permits release of equipment, facilities, and land for unrestricted use and/or termination of a license.

(3) Emergency planning and implementation - The development and application of those capabilities necessary for the protection of the public and the environment from the effects of an accidental or uncontrolled release of radioactive materials, including the equipping, training and periodic retraining of response personnel.

(4) Fixed nuclear facility - The following are considered fixed nuclear facilities:

(A) any nuclear reactor(s) at a single site;

(B) any facility designed or used for the assembly or disassembly of nuclear weapons; or

(C) any other facility using special nuclear material for which the agency conducts off-site environmental surveillance and/or emergency planning and implementation to protect the public health and safety or the environment.

(5) Limited manufacturer - A manufacturer/distributor of radioactive material that is not required to submit a decommissioning funding plan or an emergency plan in accordance with §289.252 of this title.

(6) Post-closure - The time period after which closure activities have been completed by the conventional mill licensee and prior to transfer of land ownership of tailings disposal sites to the State of Texas or the United States of America and termination of the license or after which confirmatory surveys have been conducted by the agency of an in-situ facility and before termination of the license or site.

(7) Processor of Radioactive Material - A manufacturer/distributor who converts normal form radioactive material into special form or a manufacturer/distributor of radioactive sealed sources.

**[(d) Exemptions. No application or annual fee shall be required for a general license issued in accordance with §289.251 of this title that does not require a general license acknowledgment.]**

**(d) [(e)] Payment of fees.**

(1) Each application for a specific license, general license acknowledgement, or certificate of registration for which a fee is prescribed in subsections (e), (g), or (h) **[(f), (h), or (i)]** of this section shall be accompanied by a nonrefundable fee equal to the appropriate **[annual]** fee. Each request for evaluation of a sealed source and/or device shall be accompanied by a nonrefundable fee equal to the appropriate fee as prescribed in subsection (f) **[(g)]** of this section.

(A) An application for a license covering more than one category of license or general license acknowledgement **[category]** shall be accompanied by the prescribed fee for the highest category and 25% of the applicable prescribed fee for each additional requested category.

(B) An application for a certificate of registration covering more than one category shall be accompanied by the prescribed **[base]** fee for the highest category **[of use plus the prescribed machine or service fee for each category of use]**.

(C) No application will be accepted for filing or processed prior to payment of the full amount specified.

(2) A nonrefundable fee, in accordance with subsection (e) **[(f)]** of this section shall be paid **[annually]** for each radioactive material license and/or for each general license acknowledgement. The fee shall be for the two-year term of the license or general license acknowledgement. The fee shall be paid in full **[each year]** on or before the last day of the expiration month and year of the license or general license acknowledgement. **[For example, if the license or general license acknowledgement expires May 31, 2010, annual fees are due on or before May 31 of each calendar year.]** In the case of a single license that

authorizes more than one category of use, the **[annual]** fee shall be the prescribed fee for the highest license category plus 25% of the applicable prescribed fee for each additional license category authorized.

(3) A nonrefundable fee, in accordance with subsections (e) or (h) **[(f) or (i)]** of this section, shall be paid **[annually]** for each certificate of registration for radiation machines and/or services, or sources of laser radiation. The fee shall be for the two-year term of the certificate of registration. **[The fee consists of a base fee for all registrants plus a fee where specified for each machine possessed or registrable service offered.]**

(4) In the case of a single certificate of registration that authorizes more than one category of use, the category listed in subsection (h) **[(i)]** of this section and assigned the higher **[of the]** fee **[or base fee plus corresponding machine/service fee, as applicable,]** will be used.

(5) An additional nonrefundable fee equal to five percent of the total fee for each specific license shall be paid with the specified fee by each holder of a specific license, excluding diagnostic nuclear medicine licensees.

(A) The fees collected by the agency in accordance with this paragraph shall be deposited to the credit of the Radiation and Perpetual Care Account, until the fees collectively total \$500,000.

(B) If the balance of fees collected in accordance with this paragraph is subsequently reduced to \$350,000 or less, the agency shall reinstitute assessment of the fee until the balance reaches \$500,000.

(6) [(5)] Each application for reciprocal recognition of an out-of-state license in accordance with §289.252(s) of this title, an out-of-state registration in accordance with §289.226 of this title, or an out-of-state laser registration in accordance with §289.301 of this title, shall be accompanied by the applicable **[annual]** fee, provided that no such fee has been submitted within 24 **[12]** months of the date of commencement of the proposed activity.

(7) [(6)] Each holder of a fixed nuclear facility construction permit or operating license or an operator of any other fixed nuclear facility shall submit an annual fee for services received. This fee shall recover for the State of Texas the actual expenses arising from environmental surveillance and emergency planning and implementation activities. Payment shall be made within 90 days following the date of invoice.

(8) [(7)] Fee payments shall be in cash or by check or money order made payable to the Texas Department of State Health Services **[Texas Department of Health]**. The payments may be made by personal delivery to the central office, Bureau of Radiation Control,

Texas Department of State Health Services **[Texas Department of Health]** 1100 West 49th Street, Austin, Texas, or mailed to the Bureau of Radiation Control, Texas Department of State Health Services **[Texas Department of Health]**, 1100 West 49th Street, Austin, Texas, 78756-3189.

(9) [(8)] Any applicant requesting authorization for any of the categories in subsection (e) [(f)] of this section for veterinary use will be assessed the **[annual]** fee for the corresponding category.

(e) [(f)] Schedule of **[annual]** fees for radioactive material licenses. The following schedule contains the **[annual]** fees for radioactive material licenses:

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Category of License		[Annual] Fee
(1)	Accelerator (used for Production of Radioactive Material)	<u>\$11,968.00</u> [5,984.00]
(2)	Agency-Accepted Training Course (Involving Possession of Radioactive Material)	<u>\$2,872.00</u> [1,436.00]
(3)	Bone Mineral Analyzer	<u>\$1,552.00</u> [776.00]
(4)	Broad License	<u>\$16,170.00</u> [8,085.00]
(5)	Calibration Service (Survey Instrument)	<u>\$1,320.00</u> [660.00]
(6)	Calibration/Reference Source	<u>\$990.00</u> [495.00]
(7)	Civil Defense	<u>\$1,552.00</u> [776.00]
(8)	Decontamination Service	
	(A) Fixed Site	<u>\$19,998.00</u> [9,999.00]
	(B) Mobile	<u>\$6,556.00</u> [3,278.00]
(9)	Demonstration/Sales	<u>\$2,992.00</u> [1,496.00]
(10)	Environmental Laboratory	<u>\$1,222.00</u> [611.00]
(11)	Eye Applicator	<u>\$1,222.00</u> [611.00]
(12)	Fine Leak Testing Device	<u>\$3,762.00</u> [1,881.00]
(13)	Fixed Multi-Beam Teletherapy	<u>\$6,732.00</u> [3,366.00]
(14)	X-Ray Fluorescence	<u>\$1,552.00</u> [776.00]
(15)	Hand-held Light Intensifying Imaging Device	<u>\$1,552.00</u> [776.00]
(16)	Gas Chromatograph	<u>\$1,442.00</u> [721.00]

Category of License		[Annual] Fee
(17)	Gauge	
	(A) Spinning Pipe-Thickness/Portable	<u>\$2,200.00</u> [\$1,100.00]
	(B) Fixed	<u>\$1,772.00</u> [886.00]
(18)	General License Acknowledgement-Gauge	<u>\$550.00</u> [275.00]
(19)	General License Acknowledgement-In-Vitro Testing	<u>\$276.00</u> [138.00]
(20)	Industrial Radiography (Fixed Facility)	<u>\$4,422.00</u> [2,211.00]
(21)	Industrial Radiography (Temporary Field Site)	<u>\$9,306.00</u> [4,653.00]
(22)	Installer, Repair, or Maintenance	<u>\$2,442.00</u> [1,221.00]
(23)	Irradiator (Self-Contained)	<u>\$2,442.00</u> [1,221.00]
(24)	Irradiator (Unshielded)	<u>\$15,048.00</u> [7,524.00]
(25)	In-Vitro Use of Radioactive Material	<u>\$738.00</u> [369.00]
(26)	In-Vitro Test Kit Manufacturer	<u>\$3,840.00</u> [1,920.00]
(27)	Leak Test Service	<u>\$1,442.00</u> [721.00]
(28)	Manufacturing and Commercial Distribution	
	(A) Processor of <b>[Loose]</b> Radioactive Material	<u>\$38,082.00</u> [19,041.00]
	(B) Other Manufacturing and Commercial Distribution	<u>\$6,204.00</u> [3,102.00]
	(C) Commercial Distribution Only	<u>\$2,872.00</u> [1,436.00]
	(D) Limited Manufacturing (loose material)	<u>\$5,544.00</u> [2,772.00]

Category of License		[Annual] Fee
(29)	Medical Therapy (Sealed Source)	<u>\$2,112.00</u> [ <u>\$1,056.00</u> ]
(30)	Medical Therapy (Unsealed Source)	<u>\$1,772.00</u> [ <u>886.00</u> ]
(31)	Mineral Recovery (Byproduct Material)	<u>\$52,262.00</u> [ <u>26,131.00</u> ]
(32)	Mobile Scanning Service	<u>\$3,432.00</u> [ <u>1,716.00</u> ]
(33)	Naturally Occurring Radioactive Material (NORM)-Commercial Processing	<u>\$19,998.00</u> [ <u>9,999.00</u> ]
(34)	Nuclear Medicine (Diagnostic)	<u>\$1,882.00</u> [ <u>941.00</u> ]
(35)	Nuclear Pharmacy	<u>\$5,544.00</u> [ <u>2,772.00</u> ]
(36)	Neutron-generator Target	
	(A) Sealed	<u>\$1,584.00</u> [ <u>792.00</u> ]
	(B) Unsealed	<u>\$3,168.00</u> [ <u>1,584.00</u> ]
(37)	Pacemaker	<u>\$892.00</u> [ <u>446.00</u> ]
(38)	Pipe Joint Collar Marker	<u>\$1,772.00</u> [ <u>886.00</u> ]
(39)	Radiopharmaceutical Manufacturing	<u>\$16,390.00</u> [ <u>8,195.00</u> ]
(40)	Remote Controlled Brachytherapy Device (Includes Low Dose-Rate and High Dose-Rate Remote Afterloaders and Intravenous Brachytherapy)	<u>\$2,772.00</u> [ <u>1,386.00</u> ]
(41)	Research and/or Development	<u>\$2,332.00</u> [ <u>1,166.00</u> ]
(42)	Source Material	<u>\$2,992.00</u> [ <u>1,496.00</u> ]
(43)	Special Nuclear Material	<u>\$1,772.00</u> [ <u>886.00</u> ]



Category of License		[Annual] Fee
(44)	Teletherapy	<u>\$2,772.00</u> [1,386.00]
(45)	Tracer Studies (Used in Other Than Oil and Gas Industry Wellbores)	<u>\$5,104.00</u> [2,552.00]
(46)	Tracer Studies (Used in Oil and Gas Industry Wellbores)	<u>\$3,080.00</u> [1,540.00]
(47)	Waste Processing-Class I Exempt	<u>\$2,992.00</u> [1,496.00]
(48)	Waste Processing-Class I	<u>\$31,218.00</u> [15,609.00]
(49)	Waste Processing-Class II	<u>\$73,954.00</u> [36,977.00]
(50)	Waste Processing-Class III	<u>\$213,906.00</u> [106,953.00]
(51)	Well Logging	<u>\$3,080.00</u> [1,540.00]
(52)	Other Specific License	<u>\$1,552.00</u> [776.00]
(53)	Additional Authorized Use Sites Where Radioactive Material Is Stored Or Used Under Same License <u>Or Where</u> <u>Only Records Are Stored</u>	25% of Applicable Fee Not To Exceed 50 Additional sites
(54)	Reciprocity	[Annual] Fee of Applicable Category

(f) [(g)] Fee for evaluation of a sealed source and/or device.

(1) Each time a manufacturer submits a request for evaluation of a unique sealed source, one of the following fees shall be paid:

(A) for an initial evaluation, a fee of \$3,614; or

(B) for an amendment requiring re-evaluation, a fee of \$1,804.

(2) Each time a manufacturer submits a request for evaluation of a unique device, one of the following fees shall be paid:

(A) for an initial evaluation, a fee of \$7,233; or

(B) for an amendment requiring re-evaluation, a fee of \$3,619.

(3) No request for evaluation will be processed prior to payment of the full amount specified.

**[(h) Fees for certification of mammography systems.]**

**[(1) An application for certification of mammography systems shall be accompanied by a fee of \$422 for each unit.]**

**[(2) The annual fee for mammography systems is \$422 for each unit.]**

**(g) [(i)]** Schedule of **[annual]** fees for certificates of registration for radiation machines, lasers, and services. The fee for certificates of registration for dental radiation machines is specified in §289.232 of this title. The fee for certificates of registration for radiation machines used in veterinary medicine is specified in §289.233 of this title. The following schedule contains the **[annual]** fees for certificates of registration for radiation machines, lasers, and services:

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Category of Machine/Type of Use		Fee
<b>HUMAN USE</b>		
(1)	Computerized Tomography	\$1,440.00
(2)	Fluoroscopy	\$710.00
(3)	Accelerator, Simulator, or Other Therapeutic Radiation Machine	\$510.00
(4)	Radiographic Machines Only	\$450.00
(5)	Podiatric Radiographic Only	\$340.00
<b>INDUSTRIAL USE</b>		
(6)	Industrial Radiography	
	(A) Fixed Facility	\$1,480.00
	(B) Temporary Job Sites	\$2,480.00
(7)	Other Industrial	\$500.00
	(A) Diffraction	
	(B) Computerized Tomography	
	(C) Fluoroscopy	
	(D) Flash Radiography	
	(E) Hand-held Light Intensifying Image Devices	
	(F) Accelerators	
(8)	Minimal Threat Radiation Machines as specified in §289.231(II)(3) of this title	\$240.00
	(A) Cathodoluminescence	
	(B) Electron Beam Welding	
	(C) Fluorescence X-Ray	
	(D) Gauge - X-Ray	
	(E) Ion Implantation	
	(F) Package X-Ray	
	(G) Particle Size Analyzer - X-Ray	
	(H) Cabinet X-Ray (Certified)	
	(I) Other	

Category of Machine/Type of Use	Fee
<b>INDUSTRIAL USE</b>	
(9) Services as specified in §289.226(b)(10) of this title (A) Exposure Rate or Dose Measurements (B) Radiation Machine Output Measurements (C) Agency-Accepted Training Courses (D) Calibration (E) Demonstration/Sales (F) Assembly, Installation or Repair (G) Equipment Performance Evaluations on Dental Radiation Machines (H) Provider of Equipment	\$220.00
<b>NON-IONIZING</b>	
(10) Laser - Medical/Research/Academic	\$200.00
(11) Laser - Industrial/Services/Entertainment	\$340.00
<b>OTHER</b>	
(12) Reciprocity	Fee of Applicable Category
(13) Additional Authorized Use Location Where Radiation Machines or Services are Authorized Under the Same Registration	30% of Applicable Fee

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Category of Certificate of Registration	[ Annual Fees		
	<u>1-9 Machines</u>		<u>10 or More Machines</u>
	Base Fee	Each Machine Or Service]	Fee

[EDUCATIONAL, HEALING ARTS]

[(1)	Educational/Academic (Other Than Medical)	\$ 95.00	\$ 70.00	\$ 955.00
(2)	Medical Facility	95.00	70.00	955.00
(3)	Chiropractic	95.00	35.00	445.00
(4)	Dental	95.00	20.00	295.00
(5)	Podiatric	95.00	35.00	445.00
(6)	Veterinary	95.00	20.00	295.00]

[INDUSTRIAL]

[(7)	Minimal Threat Devices	\$ 95.00	\$ 15.00	\$ 245.00]
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- [(A) Airport Baggage X-Ray
- (B) Cathodoluminescence
- (C) Electron Beam Welding
- (D) Fluorescence X-Ray
- (E) Gauge- X-Ray
- (F) Ion Implantation
- (G) Electron Microscope
- (H) Package X-Ray
- (I) Particle Size Analyzer- X-Ray
- (J) Cabinet X-Ray (Certified)
- (K) Other]

Category of Certificate of Registration	[Annual Fees		
	<u>1-9 Machines</u> Base Fee	<u>Each Machine</u> Or Service]	<u>10 or More Machines</u> Fee

[INDUSTRIAL]

[ (8)	Other Industrial Applications	\$ 200.00	\$ 55.00	\$ 750.00]
	(A) Diffraction X-Ray/Spectroscopy			
	(B) Fluoroscopy			
	(C) Other Registered Industrial Sources (includes computerized tomography scanner)			
	(D) Flash Radiography (i.e., bomb detection)			
	(E) Hand-held Light Intensifying Image Devices			
	(F) Accelerator]			

[Category of Certificate of Registration	Annual Fees	
	Base Fee	Each Service]

[INDUSTRIAL]

[ (9)	Industrial Radiography (Fixed Facility)	\$ 740.00	
(10)	Industrial Radiography (Temporary Job Sites)	1,240.00	
(11)	X-Ray Services		
	(A) Manufacturer	170.00	\$ 60.00
	(B) Assembler	170.00	60.00]

[Category of Certificate of Registration	Annual Fees	
	Base Fee	Each Service]

**[INDUSTRIAL]**

[(C)	Other Services	\$ 170.00	\$30.00]
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- |         |   |  |  |
|---------|---|--|--|
| [(i)    | Agency-Accepted Training Courses                  |  |  |
| [(ii)   | Calibration and Repair of X-Ray Equipment         |  |  |
| [(iii)  | Calibration of Survey and Measurement Instruments |  |  |
| [(iv)   | Consultants                                       |  |  |
| [(v)    | Demonstration/Sales of X-Ray Equipment            |  |  |
| [(vi)   | Personnel Monitoring Services                     |  |  |
| [(vii)  | Provider of X-Ray Equipment                       |  |  |
| [(viii) | X-Ray Equipment Performance Evaluation]           |  |  |

**[NONIONIZING]**

[(12) Laser Light Show]

[(A)	Mobile	\$1,140.00	
[(B)	Stationary	500.00]	

[(13)	Other Lasers	100.00	
[(14)	Laser Services	170.00]	

- |      |   |  |  |
|------|---|--|--|
| [(A) | Demonstration/Sales of Lasers           |  |  |
| [(B) | Provider of Lasers                      |  |  |
| [(C) | Calibration/Alignment/Repair of Lasers] |  |  |

[Category of Certificate of Registration]	Base Fee	Annual Fees Each Machine or Service]
[OTHER]		
[(15) Reciprocity		Annual Fee of Applicable Category
(16) Additional Authorized Use Location Where Radiation Machines Or Services are Authorized Under The Same Registration		30% of Applicable Fee]

(h) [(j)] Annual fees for environmental surveillance and emergency planning and implementation. Fees shall be set annually by the agency for each facility. Fees for fixed nuclear facilities shall be the actual expenses for environmental surveillance and emergency planning and implementation activities. Costs of activities benefiting more than one facility shall be prorated.

(i) [(k)] Failure to pay prescribed fees.

(1) In any case where the agency finds that an applicant for a license or certificate of registration has failed to pay the fee prescribed in this section, the agency will not process that application until such fee is paid.

[(2) In any case where the agency finds that a licensee or registrant has failed to pay a fee prescribed by this section by the due date, the licensee or registrant shall pay an annual late payment fee of 20% of the annual fee prescribed in subsections (f), (h), (i) and (l) of this section, in addition to the annual license and registration fee. The annual late payment fee shall not exceed \$10,000 for each licensee or registrant who fails to pay the fees prescribed by this section.]

(2) [(3)] In any case where the agency finds that a licensee or registrant has failed to pay a fee prescribed by this section by the due date, the agency may implement compliance procedures as provided in §289.205 of this title (relating to Hearing and Enforcement Procedures).

(3) [(4)] In any case where the agency finds that a fixed nuclear facility has failed to pay fees for environmental surveillance or emergency planning and implementation within 90 days following date of invoice, the agency may issue an order to show cause why those services should not be terminated.



(j) [(l)] Schedule of fees for uranium recovery and byproduct material disposal facility licenses. The following schedule contains the fees for uranium recovery and byproduct material disposal facility licenses:

License Category	New Application	Operational Status [Year]	Closure Only	Post-Closure
(a) Conventional	\$361,794 [\$266,592]		\$95,202 [\$47,601]	\$81,268 [\$40,634]
(b) In Situ	\$252,057 [\$156,855]	\$95,202 [\$47,601]	\$95,202 [\$47,601]	\$40,634 [\$20,317]
(c) Heap Leach	\$254,617 [\$159,419]			
(d) Disposal Only	\$292,757 [\$197,555]	\$95,202 [\$47,601]	\$95,202 [\$47,601]	\$81,268 [\$40,634]

(l) [(m)] Adjustments to [annual fees] for uranium recovery and byproduct material disposal facility licenses.

(1) If additional noncontiguous uranium recovery facility sites are authorized under the same license, the appropriate [annual] fee shall be increased by 25% for each additional site for an operational year and 50% for closure only.

(2) If an authorization for disposal of byproduct material is added to a license, the appropriate [annual] fee shall be increased by 25%.

(m) [(n)] One-time fee adjustments for uranium recovery and byproduct material disposal facility licenses. For the addition of the following items after an environmental assessment has been completed on a facility, a one-time fee corresponding to the item shall be paid:

- (1) \$22,389 for in situ wellfield on noncontiguous property;
- (2) \$55,977 for in situ satellite;
- (3) \$8,777 for wellfield on contiguous property;
- (4) \$39,653 for non-vacuum dryer; or
- (5) \$55,977 for disposal (including processing, if applicable) of byproduct material.